

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)
Petitioner,)
v.)
WESLEY GRAHAM,)
(Reg. No. 41120-037),)
Respondent.)

07 MBD 10064
Misc. Action No.

**NOTICE OF CERTIFICATION THAT RESPONDENT
IS A SEXUALLY DANGEROUS PERSON AND
REQUEST FOR HEARING PURSUANT TO 18 U.S.C. § 4248(a)**

The United States of America, by its attorney, Michael J. Sullivan, United States Attorney for the District of Massachusetts, hereby provides notice to this Court that the defendant, Wesley Graham, Reg. No. 41120-037, has been certified to be a "sexually dangerous person" pursuant to section 302(4) of the Adam Walsh Child Protection and Safety Act, Pub. L. No. 109-248, Title III, § 302(4), 120 Stat. 620 (July 27, 2006), codified at 18 U.S.C. § 4248(a), and moves this Honorable Court for a hearing to determine whether defendant Wesley Graham is a "sexually dangerous person" subject to civil commitment for treatment in an appropriate facility pursuant to 18 U.S.C. § 4248. In further support thereof, the United States says as follows:

1. Section 302(4) of the Adam Walsh Child Protection and Safety Act provides, as relevant here:

In relation to a person who is in custody of the Bureau of Prisons * * * any individual authorized by the Attorney General or the Director of the Bureau of Prisons may certify that the person is a sexually dangerous person, and transmit the certificate to the clerk of the court for the district in which the person is confined. The clerk shall

send a copy of the certificate to the person, and to the attorney for the Government. * * * The court shall order a hearing [to be conducted pursuant to the provisions of section 4247(d)] to determine whether the person is a sexually dangerous person. A certificate filed under this subsection shall stay the release of the person pending completion of procedures contained in this section.

18 U.S.C. § 4248(a). The term "sexually dangerous person" is defined in 18 U.S.C. § 4247(a)(5) to mean "a person who has engaged or attempted to engage in sexually violent conduct or child molestation and who is sexually dangerous to others." The term "sexually dangerous to others" is defined in 18 U.S.C. § 4247(a)(6) to mean, with respect to a person, "that the person suffers from a serious mental illness, abnormality, or disorder as a result of which he would have serious difficulty in refraining from sexually violent conduct or child molestation if released."

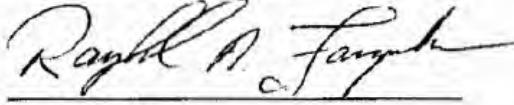
2. Attached hereto as Exhibit 1 is a "Certification of a Sexually Dangerous Person" executed by William T. Bickart, Interim Chairperson of the Bureau of Prisons' Certification Review Panel. Attached hereto as Exhibit 2 is a copy of a memorandum from Harley G. Lappin, Director of the Bureau of Prisons, delegating to, among others, William T. Bickart, Interim Chairperson of the Bureau of Prisons' Certification Review Panel, the authority to certify offenders as sexually dangerous persons pursuant to 18 U.S.C. § 4248(a). These documents establish that (1) the respondent, Wesley Graham, is presently in Bureau custody at the Federal Medical Center, Devens, Massachusetts; and (2) that an individual, William T. Bickart, who has received the required delegation of authority from the Director of the Bureau of Prisons, has certified that respondent Wesley Graham is a "sexually dangerous person" as defined by 18 U.S.C. § 4247(a)(5) and "sexually dangerous to others" as defined by 18 U.S.C. § 4247(a)(6).

WHEREFORE, the United States of America hereby requests that this Honorable Court set a time and date to conduct a hearing required by 18 U.S.C. § 4248(a) to determine whether respondent is a sexually dangerous person subject to commitment to the custody of the Attorney

General for treatment in a suitable facility in accordance with 18 U.S.C. § 4248(d). Pursuant to 18 U.S.C. § 4248(a), as the result of the filing of the certification attached to this petition as Exhibit 1, respondent Wesley Graham will remain in custody pending completion of the procedures set forth in 18 U.S.C. § 4248.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: 

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Assistant U.S. Attorney
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(617) 748-31--

Dated: February 20, 2007

CERTIFICATION OF A SEXUALLY DANGEROUS PERSON

(1) I, William T. Bickart, am Interim Chairperson of the Federal Bureau of Prisons (Bureau) Certification Review Panel, Washington, D.C. Pursuant to 28 C.F.R. § 0.97, the Director of the Bureau has delegated to me the authority to certify persons in Bureau custody as sexually dangerous, as authorized by 18 U.S.C. § 4248(a).

(2) Bureau records reflect the following: Inmate Wesley Graham, Register Number 41120-037, is in Bureau custody at the Federal Medical Center in Ayer (Devens), Massachusetts, serving a violation of parole term of imprisonment for a District of Columbia conviction for Assault with Intent to Rape in violation of D.C. Code § 22-401 (formerly D.C. Code § 22-501) (Docket No. F-93316-75) (District of Columbia Superior Court). The offense conduct in the original case involved inmate Graham sexually assaulting a female. The criminal conduct that caused his violation of parole involved inmate Graham choking a female victim into unconsciousness and then forcing vaginal intercourse. For that conduct, inmate Graham was convicted of Rape and given a 4- to 12-year term of imprisonment (CT-87-1065) (Prince George's County Circuit Court, MD). Inmate Graham's mandatory release date is March 22, 2007.

(3) Based on a review of inmate Graham's Bureau records, I certify he is a sexually dangerous person as defined by 18 U.S.C. § 4247(a)(5), and sexually dangerous to others as defined by 18 U.S.C. § 4247(a)(6). My certification is based on information found in Bureau records which includes, but is not

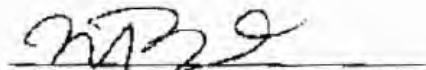
limited to, the following:

(A) Inmate Graham previously engaged or attempted to engage in the sexually violent conduct or child molestation as evidenced by his offense conduct, parole violation conduct, and prior conviction for Rape and sentence to a term of six to eighteen months in 1974 (District of Columbia Superior Court). The offense conduct in that case involved inmate Graham sexually assaulting a female.

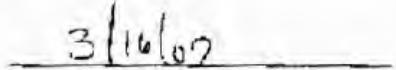
(B) A limited psychological review of inmate Graham indicated, among other diagnoses, an Axis II diagnosis of Antisocial Personality Disorder.

(C) An initial assessment of inmate Graham using two actuarial risk assessment instruments (Static-99 and Rapid Risk Assessment for Sexual Offense Recidivism (RRASOR)) was conducted. These results, in addition to inmate Graham's history of substance abuse, limited employment history, and a history of offending while on supervised release, indicate he will have serious difficulty refraining from sexually violent conduct or child molestation if released.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.



William T. Bickart
Interim Chairperson
Certification Review Panel
Federal Bureau of Prisons



Date

U. S. Department of Justice

January 22, 2007

MEMORANDUM FOR KATHLEEN M. KENNEY, ASSISTANT DIRECTOR
OFFICE OF GENERAL COUNSEL

JOHN M. VANYUR, ASSISTANT DIRECTOR
CORRECTIONAL PROGRAMS DIVISION


FROM: Harley G. Lappin, Director
SUBJECT: Establishment of a Certification Review Panel and
Delegation of Certification Authority

By this memorandum, I am directing the establishment of a Certification Review Panel (CRP) to review releasing offenders for civil commitment pursuant to Title 18 U.S.C. § 4248(a), as enacted by the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248). This panel is to be composed of staff from the Correctional Programs Division, the Office of General Counsel, and others appointed by the Assistant Director, Correctional Programs Division.

Further, I am delegating authority to certify offenders as "sexually dangerous persons" as defined under this law, to the Chairperson of the CRP. On an interim basis, this authority is delegated to Dr. William T. Bickart, Interim CRP Chair, and Dr. Paul Sahwell, Dr. Patti Butterfield or Dr. John Baxter as alternate Chairpersons in his absence. As a permanent CRP is staffed, this delegated authority will convey to the Chairperson of the CRP.